

Message Text

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PAGE 01 STATE 027530
ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-08 AID-05 COME-00 CIAE-00
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DRAFTED BY OPIC/GC CFLIPMAN
APPROVED BY EB/IFD: OIA: MPBOERNER
OPIC/GC: CHUNT
OPIC/T: TCLEGG
NEA/PAB: JPMULLIGAN (SUBSTANCE)
EB/IFD/OIA: DVGRANT
-----000341 021229Z /23
R 020140Z FEB 78
FM SECSTATE WASHDC
TO AMEMBASSY DACCA

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FROM OPIC

E.O. 11652: N/A

TAGS: EINV

SUBJECT: BELBAGCO

REFS: (A) DACCA 0635 (B) DACCA 0366 (C) DACCA 4949

1. SUMMARY: ON JAN 30, 1978 OPIC REPS HUNT, CLEGG AND LIPMAN AND DEPT REP MULLIGAN, NEA/PAB, CALLED ON AMB SIDDIQI AND ECON MINISTER KARIM OF BDG EMBASSY, AT EMBASSY'S REQUEST, TO DISCUSS OPIC/BELBAGCO CLAIM (THE "CLAIM"). OPIC REPS, WHILE PRESENTING UNDERSTANDING ATTITUDE, MAINTAINED PAST OPIC POSITION OF REQUESTING USD 825,000 (PAYABLE OVER THREE YEARS IN TAKAS) TO SETTLE CLAIM. END SUMMARY.

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PAGE 02 STATE 027530

2. WE APPRECIATE EMBASSY EFFORTS DESCRIBED REFTELS TO REACH SETTLEMENT.

3. ON JAN 24, 1978 ECON MINISTER KARIM TELEPHONED OPIC REQUESTING DISCUSSION OF CLAIM AT BDG EMBASSY. IN PREPARATION FOR MEETING, OPIC DELIVERED COPIES OF SEP 21, 1977

LETTER FROM OPIC TO ZAINUL ABEDIN, DISCUSSING BACKGROUND OF CLAIM AND CURRENT OPIC POSITION REDUCING OFFER OF SETTLEMENT FROM USD 920,000 TO USD 825,000.

4. ON JAN 30, 1978 OPIC REPS CECIL HUNT, ACTING GENERAL COUNSEL, THOMAS CLEGG, ASSISTANT TREASURER, AND CHARLES LIPMAN, SENIOR COUNSEL FOR FINANCE, AND DEPT OFFICIAL JOHN MULLIGAN, NEA/PAB, MET AMB SIDDIQI AND ECON MINISTER KARIM AT BDG EMBASSY TO DISCUSS CLAIM. BDG REPS, WHILE STATING THEY HAD NO AUTHORITY TO SETTLE, SEEMED ANXIOUS TO EXPLORE BASIS FOR REACHING SETTLEMENT.

5. OPIC REPS EMPHASIZED COMPROMISES MADE BY OPIC IN PAST FROM USD 2.5 MILLION TO USD 1.5 MILLION TO USD 920,000 AND, FINALLY, TO USD 825,000 BY OPIC LETTER OF SEP 2), 1977, AND EXPRESSED CONCERN THAT NO ACCEPTANCE (OR COUNTER-PROPOSAL) HAD YET BEEN MADE BY BDG.

6. BDG REPS INQUIRED ABOUT AMOUNT OF OPIC INSURANCE PAYMENT TO BELBAGCO. OPIC REPS EXPLAINED IRRELEVANCE OF THIS FIGURE TO BDG COMPENSATION OBLIGATION AND DECLINED ON PRINCIPLE TO GIVE IT. EXPLANATION STRESSED (A) THAT OPIC, CONSISTENT WITH STANDARD INSURANCE PRACTICE, HAD TAKEN AN ASSIGNMENT OF ENTIRE RIGHTS OF BELBAGCO AGAINST BDG AND (E) THAT BDG COMPENSATION OBLIGATION MUST BE MEASURED AGAINST GENERAL AND INTERNATIONAL NORMS, NOT LIMITED OFFICIAL USE

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PAGE 03 STATE 027530

AGAINST INSURANCE, WHICH DOES NOT PURPORT TO BE FULL VALUE COVERAGE AND WHICH MAY COVER LESS THAN THE ENTIRE INVESTMENT. IT WAS FURTHER NOTED THAT OPIC IS REQUIRED TO PAY TO BELBAGCO ANY EXCESS BY WHICH OPIC'S RECOVERY FROM BDG EXCEEDS INSURANCE PROCEEDS PAID BY OPIC TO BELBAGCO, BUT THAT THIS THEORETICAL RIGHT OF BELBAGCO IS NOW MOOT SINCE OPIC'S PAYMENT TO BELBAGCO WAS GREATER THAN PRESENT AMOUNT OF THE CLAIM. OPIC REPS POINTED OUT THAT ALTHOUGH OPIC INSURANCE COMPENSATION TO BELBAGCO COVERED BOTH EXPROPRIATION AND WAR DAMAGE, AMOUNT OF WAR DAMAGE HAD BEEN EXCLUDED FROM THE CLAIM.

7. THE USG-BDG MEETINGS IN DACCA IN AUG 1977 WERE OUTLINED BY OPIC REPS STATING THE SUBSTANCE OF THE LIPMAN/CLEGG TRIP REPORT DATED AUG 1U, 1977, COPY OF WHICH HAS BEEN POUCHED TO EMBASSY, INCLUDING: THE "REPLACEMENT VALUE" CALCULATION; THE "BOOK VALUE" CALCULATION (TRANSLATING TAKAS TO DOLLARS AT THE T4.79 TO USD ONE RATE OF EXCHANGE IN EFFECT WHEN TANGIBLE ASSETS WERE ACQUIRED BY BANGLADESH FABRIC CO., LTD. ("BANFAB")); THE INTEREST RATE (ACCRUING FROM MAR 1972) THAT OPIC BELIEVES SHOULD BE APPLIED; THE RESORT TO "LUMP SUM" COMPROMISE FIGURES

TO RESOLVE THE CLAIM (WHICH AMB SIDDIQI SEEMED TO APPROVE);
THE BDG ACCEPTANCE OF THE TAKA 5.3 MILLION TOTAL FIGURE

OF THE OPIC-PREPARED BANFAB STATEMENT OF FINANCIAL POSITION
OF MARCH 26, 1972 (ATTACHED AS EXHIBIT TO OPIC LETTER TO
ABEDIN OF JUL 20, 1977, ATTACHED AS TAB A TO LIPMAN/CLEGG
TRIP REPORT); AND THE MAINTENANCE OF VALUE CONCEPT IN
ACCEPTING CLAIM PAYMENTS IN TAKAS OVER THREE YEARS.

8. U.S. INVESTMENT LOSS TO BANGLADESH THAT WOULD RESULT
FROM DELAYING SETTLEMENT WAS POINTED OUT, AS WAS FACT
THAT A NUMBER OF POTENTIAL INVESTORS HAVE APPLIED FOR OPIC
INSURANCE.

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PAGE 04 STATE 027530

9. BDG REPS SAID THAT SETTLEMENT PROPOSED BY OPIC COULD
BE A TROUBLESOME PRECEDENT FOR BDG. HUNT SUGGESTED THAT
1975 USG-BDG INVESTMENT GUARANTY BILATERAL AGREEMENT AND
ITS ACCOMPANYING LETTER AGREEMENT REFERRING SPECIFICALLY
TO BELBAGCO CLAIM AND BANFAB MIGHT PROVIDE SUFFICIENT
GROUNDS TO AVOID SUCH EFFECT.

10. ALTHOUGH AMB SIDDIQI MADE PASSING REFERENCES TO
ALLEGED UNPROFITABILITY OF BANFAB OPERATION AND UNCERTAIN
VALUE OF MACHINERY, HE DID NOT PRESS SUCH POINTS. HE
APPEARED TO ACKNOWLEDGE THAT NEXT MOVE IS UP TO BDG AND
THAT LUMP SUM APPROACH WILL HELP TO ACHIEVE SETTLEMENT.
THE AMOUNT OF TIME AMB SIDDIQI DEVOTED TO THE MEETING
(OVER AN HOUR) AND HIS OBVIOUS PREPARATION SUGGEST THAT
HE HOPES TO PLAY A REAL ROLE IN ACHIEVING A SETTLEMENT.
HE INDICATED HE WOULD BE BACK IN TOUCH WITH OPIC FAIRLY
SOON. IF EMBASSY CONCURS, WE PROPOSE TO LET THIS NEW
INITIATIVE DEVELOP WITHOUT FOLLOW-UP AT DACCA END FOR
THE TIME BEING. DECONTROL FOLLOWING FEB 1, 1979. VANCE

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
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